

RID (Rule Interpretation Decision)

(Use additional sheets as necessary)

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|--|---|------------------------|
| Type of RID | Requested Response Time | DSD Assigned RID # 109 |
| Customer RID <input type="checkbox"/> | 24 hours <input type="checkbox"/> | |
| Internal Staff RID <input checked="" type="checkbox"/> | 5 working days <input type="checkbox"/> | |
| | As time available <input checked="" type="checkbox"/> | |

1. Project Name: Live Entertainment

2. Project Number: None

(Plat #, Zoning Case #, etc.)

3. Project Street Address: None

(If not available nearest intersection of two public streets)

4. Applicant Name: DSD Staff

5. Applicant Address: DSD

6. Applicant Telephone #: DSD

7. Applicant e-mail Address: DSD

8. Rule in Question: Zoning district required for the live entertainment use

9. Applicant's Position:

Date: June 1, 2012

Contact: Andrew Spurgin

Contact Telephone #: 207-8229

A Specific Use Authorization ("S") of City Council is required when:

- A bar, nightclub or live entertainment establishment engages in live entertainment 3 or more days per week; or
- A bar, night club or live entertainment establishment charges a cover charge 3 or more days per week; or
- A restaurant charges a cover charge 3 or more days per week.

The purpose of this RID is to interpret the intent of the related UDC amendment and to provide clarification for implementation and enforcement by staff.

10. Staff Finding:

Date: June 1, 2012

Contact: Andrew Spurgin

Contact Telephone #: 207-8229

A code amendment was adopted by San Antonio's City Council on May 21, 2009 (Ord.2009-05-21-0428.) This amendment modified Table 311-2 Nonresidential Use Matrix and created definitions for live entertainment and cover charge.

In discussions with City Council in 2008 and 2009 a desire was expressed to propose an amendment to the UDC that would include location criteria for, and properly define, "live

entertainment". In advance of the City Council Consideration Request memo (CCR), staff worked with various stakeholders, including the San Antonio Restaurant Association, to gather ideas and input. It was important to ensure that restaurants that have singing waiters or performing mariachis were not unfairly affected, but at the same time capture those uses that identify themselves as restaurants but are instead bars or nightclubs with live entertainment. In discussion with the Restaurant Association, it was determined that uses that identify themselves as restaurants, but that charge a cover charge three or more days per week are in fact not restaurants.

When the City Council issued the CCR, it specifically directed staff to identify appropriate zoning districts for live entertainment when coupled with a cover charge levied three or more days per week. To carry out this request staff developed definitions for cover charge and live entertainment for this ordinance that was adopted by City Council as shown below (Table 311-2 of the UDC):

| TABLE 311-2 NON-RESIDENTIAL USE MATRIX | | | | | | | | | | | | | |
|---|---|------------------------|------------|-----------|------------|------------|------------|----------|----------|------------|------------|-------------|------------------------|
| | PERMITTED USE | O-1 & O-1.5 | O-2 | NC | C-1 | C-2 | C-3 | D | L | I-1 | I-2 | ERZD | (LBCS Function) |
| Alcohol | Alcohol – Bar And/Or Tavern without Cover Charge 3 or more days per week | | | S | S | S | P | P | P | | | P | |
| Alcohol | Alcohol – Bar and/or Tavern with Cover Charge 3 or more days per week | | | | | | S | P | | | | P | |
| Alcohol | Alcohol – Nightclub without Cover Charge 3 or more days per week | | | | | | P | P | P | | | | |
| Alcohol | Alcohol – Nightclub with Cover Charge 3 or more days per week | | | | | | S | P | | | | | |
| Amusement | Live Entertainment without Cover Charge 3 or more days per week (not including Food Service Establishments) | | | | | | S | P | | | | P | |
| Amusement | Live Entertainment with Cover Charge 3 or more days per week (not including Food Service Establishments) | | | | | | S | P | | | | P | |
| Service | Food Service Establishment without Cover Charge 3 or more days per week with or without accessory live entertainment) | | P | P | P | P | P | P | P | P | | P | |
| Service | Food Service Establishment with Cover Charge 3 or more days per week (with or without accessory live entertainment) | | | | | | S | P | | | | P | |

The 2009 amendment also added definitions to Section 35-A101 for "cover charge" and "live entertainment as follows":

Cover charge. A fee levied by a food service establishment, nightclub or tavern in addition to the charge for food and/or drink.

Live entertainment. A use which includes any or all of the following activities, either principal or accessory: performance by musicians, dancers, stand-up comedians or other performance artists; karaoke; live bands or musical acts; or the amplification of recorded music/entertainment by live disk jockeys.

11. Staff Position:

(Including date position presented internally and name of city staff person formulating position)

Date: June 1, 2012

Contact: Andrew Spurgin **Contact Telephone #:** 207-8229

The intent of the 2009 code amendment requiring a specific use authorization was to provide a forum for additional public participation in the review and approval processes for land uses that engage in live entertainment in the interest of promoting quality of life and maintaining appropriate transitions between land uses.

Staff's position on the code language is that a specific use authorization ("S") is required in the C-3 district for a bar, tavern or nightclub – that includes live entertainment (as defined) occurring 3 or more days per week, whether principal or accessory, except in the case of restaurants. Additionally, a specific use authorization is required in the C-3 district for bars, nightclubs, restaurants or live entertainment establishments that levy a cover charge three or more days per week.

A bar, tavern or nightclub may engage in live entertainment, as defined, for 2 nights or less per week without a specific use authorization of City Council.

12. Departmental Policy or Action:

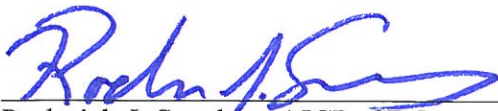
(Including date of presentation of policy or action to the applicant, the effective date of the policy or action, schedule for pursuing an amendment to the code if required and signature of the Director of Development Services)

Date of policy/action: June 1, 2012

Effective Date of policy/action: immediate

The Director concurs with the staff findings to provide clarification as indicated above and directs the issuance of RID #109. The Director also recognizes that for clarification purposes minor modifications to the UDC may be necessary and should be conducted via the next available update process.

It is further noted that where Live Entertainment, as defined in 35-A101, is permitted the noise provisions of Chapter 21 of the City Code shall still apply.



Roderick J. Sanchez, AICP, CBO
Development Services Director



Date